

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

APR 6 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Review of the Commission's
Rules and Policies
Affecting the Conversion
To Digital Television

)
)
)
)
)
)
)

MM Docket No. 00-39

COMMENTS OF
THOMSON MULTIMEDIA, INC.

David H. Arland
Director, Government and
Public Relations
THOMSON MULTIMEDIA, INC.
P.O. Box 1976, INH-430
Indianapolis, IN 46206-1976
(317) 587-4832

Lawrence R. Sidman, Esq.
Michael M. Pratt, Esq.
Sara Morris
VERNER, LIIPFERT, BERNHARD,
MCPHERSON & HAND, CHARTERED
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(202) 371-6206

April 6, 2001

TABLE OF CONTENTS

Executive Summary.....	i
I. INTRODUCTION AND STATEMENT OF INTEREST.....	1
II. A DIGITAL TUNER REQUIREMENT IS BEYOND THE COMMISSION'S AUTHORITY AND WOULD IMPERIL THE FORWARD PROGRESS OF THE DTV TRANSITION.	4
A. A DTV TUNER MANDATE WOULD DRASTICALLY INCREASE RETAIL PRICES OF TELEVISION SETS.	5
1. <i>DTV Reception Capability Would Add \$200 to \$300 in Manufacturing Costs to All Receivers.</i>	6
B. CONSUMERS WOULD BE THE CASUALTIES OF FORCED INTEGRATION.	7
III. THE ADOPTION OF LABELS FOR EQUIPMENT THAT IS NOT CAPABLE OF RECEIVING OVER-THE-AIR SIGNALS IS UNNECESARY AND PREMATURE.	9
IV. THERE ARE SIGNIFICANT REMAINING OBSTACLES TO A SUCCESSFUL DTV TRANSITION THAT WARRANT THE ATTENTION OF, AND ACTION BY, THE FCC.	10
A. LACK OF PROGRAMMING IS ONE OF THE MOST SIGNIFICANT OBSTACLES TO THE DTV TRANSITION.	10
B. RAPID ADOPTION OF FINAL STANDARDS ENABLING CABLE-DTV COMPATIBILITY IS ESSENTIAL TO DRIVE DTV EQUIPMENT PENETRATION IN AMERICA'S 70 MILLION CABLE HOUSEHOLDS.	11
C. DTV COPY PROTECTION CAN AND MUST BE CRAFTED TO BALANCE THE EXISTING RIGHTS OF BOTH CONTENT OWNERS AND CONSUMERS.....	11
V. CONCLUSION.	12

EXECUTIVE SUMMARY

The Commission's narrowly focused *Further Notice of Proposed Rulemaking* ("FNPRM") raises serious concerns both because of what it addresses as well as what it does not address. Thomson Multimedia, Inc. ("Thomson") believes that the Commission should reject proposals calling for a DTV tuner requirement and proposals regarding the labeling of yet to be created DTV products incapable of receiving over-the-air broadcast signals. The Commission's approach to impediments to the DTV transition should be comprehensive, and piecemeal regulation which could have unintended consequences must be avoided.

First, Thomson is concerned by the FNPRM's questions concerning the advisability of forcing manufacturers to include DTV reception capability in all televisions above a certain screen size. Not only does the Commission lack the legal authority to impose such "forced integration" (see Petition for Partial Reconsideration of Thomson Consumer Electronics, Inc. in MM Docket 00-39 (filed March 15, 2001) and Petition for Reconsideration of Consumer Electronics Association in MM Docket 00-39 (filed March 15, 2001)), but such a requirement would create a major obstacle to consumer acceptance of DTV and imperil the transition. Adding DTV reception capability to analog NTSC television receivers is not a simple task. It is an extensive undertaking which involves mechanical parts, MPEG decoding, VSB integrated circuitry, memory chips, converters, switches, up amps, EE prongs, clock ICs and additional power supply, not to mention variable manufacturing costs and overhead. The result: forced integration will add \$200 to \$300 in costs by the end of 2002, doubling or tripling the prices of roughly forty percent of the TV sets sold in the U.S. It is for good reason that consumer and senior groups have roundly condemned forced integration.

Second, regarding the labeling of DTV products incapable of receiving over-the-air broadcast signals, Thomson observes that there are no such products on the market at this time. If and when these products are introduced it may be appropriate to consider labels that inform consumers regarding the products' capabilities and limitations. At this time, however, developing a new labeling category is unnecessary and premature.

Finally, Thomson urges the Commission to continue addressing all essential components of the DTV transition. Forced integration of DTV reception capability is not a "silver bullet." Instead, the Commission must continue to strive to: (1) ensure that there is a sufficient amount of unique, high quality DTV content; (2) achieve the adoption of final standards enabling true cable-DTV compatibility; and (3) encourage resolution of copy protection issues in a manner that recognizes the rights of content providers and consumers alike.

For the foregoing reasons, Thomson urges the Commission to reject the concept of forced integration and proposals for the labeling of non-existent products while developing comprehensive solutions to problems besetting the DTV transition.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Review of the Commission's)	MM Docket No. 00-39
Rules and Policies)	
Affecting the Conversion)	
To Digital Television)	
)	

**COMMENTS OF
THOMSON MULTIMEDIA, INC.**

Thomson Multimedia, Inc. ("Thomson") respectfully submits these Comments in response to the Federal Communications Commission's ("FCC" or "Commission") *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.¹

I. INTRODUCTION AND STATEMENT OF INTEREST.

Thomson is the leading television and digital satellite receiver manufacturer and marketer in the United States, selling each year more than 4 million televisions and 2 million digital satellite receivers. Thomson has been a leader in the development of digital television technology for more than a decade, and today offers a growing line of increasingly affordable DTV products, including integrated HDTVs, high-resolution digital displays, and the industry's most affordable digital-to-analog set-top converter. The breadth of Thomson's DTV product line, both in terms of functionality and price, reflects the company's historic and commercially successful commitment to providing "something for everyone." Such an approach, which puts the interests of the consumer first and foremost, is an essential

¹ *Further Notice of Proposed Rulemaking* in MM Docket 00-39 (rel. Jan. 19, 2001) ("FNPRM").

ingredient to succeeding in the ferociously competitive consumer electronics marketplace, and is all the more essential in driving consumer interest in DTV.

The Commission has played a positive role in facilitating the transition to DTV, thanks largely to its understanding of when its regulatory intervention was necessary and when forward movement could be achieved through marketplace forces. Thus, the Commission has known when to take action to remove obstacles to the transition (such as in its recent reaffirmation of the 8VSB DTV standard),² and when to allow already competitive markets to drive the DTV transition (such as in its consistent rejection of government-imposed performance standards for DTV receivers).³ Moreover, the Commission's generally holistic approach recognizes that no single industry or government mandate can make the transition succeed, and that a rapid and smooth transition to DTV requires the participation and cooperation of multiple stakeholders, including broadcasters, cable operators, consumer electronics manufacturers, the computer industry and, most of all, consumers.

The Commission has now put forth, in its *FNPRM*, specific questions concerning the advisability of forcing manufacturers to include DTV reception capability in all televisions above a certain screen size, as of a date certain.⁴ As Thomson has already urged in this proceeding,⁵ such a requirement would be extremely unwise and counterproductive. In fact, even assuming *arguendo*, that the Commission possesses sufficient legal authority to adopt

² *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Report and Order* in MM Docket 00-39 (rel. Jan. 19, 2001) ("*Biennial Review Report and Order*") at ¶ 92.

³ *Id.* at ¶ 96.

⁴ *FNPRM* at ¶ 108.

⁵ Comments of Thomson Consumer Electronics, Inc. in MM Docket 00-39 (filed May 17, 2000).

such a mandate,⁶ forced integration of DTV reception capability would create a major obstacle to consumer acceptance of DTV and imperil the transition. Far from the "silver bullet" some advocates are portraying it to be, forced integration – particularly in the absence of final resolution on DTV-compatibility, copy protection and the availability of greater amounts of unique and high-quality digital programming – would require millions of Americans to pay significant price premiums for TV sets, without any guarantee that they will have compelling digital content to watch, or, if they are cable subscribers, that they will be able to receive any digitally transmitted programming at all. The obvious risk, foreshadowed by the strong opposition of the Consumer Federation of America to this proposal, is that there will be a consumer backlash which will sour, perhaps irreversibly, the public's interest in making the transition to DTV.

In addition, the *FNPRM* poses specific questions regarding certain labeling requirements. Thomson does not believe that the regulation of labels for yet to be marketed products that would be incapable of receiving any over-the-air signals is necessary at this time. Given the absence of any such products in the marketplace, an FCC labeling requirement would be premature.

Finally, Thomson is concerned by the fact that the *FNPRM* focuses exclusively on the forced integration of digital reception capability and labeling proposals, ignoring the inter-related nature of the remaining impediments to a successful DTV transition. It would be a serious policy mistake, with negative market consequences, if the Commission singled out

⁶ Thomson and the Consumer Electronics Association ("CEA") have already urged the Commission to reconsider its legal conclusion that it possesses authority to impose a DTV reception mandate. See Petition for Partial Reconsideration of Thomson Consumer Electronics, Inc. in MM Docket 00-39 (filed March 15, 2001) ("*Thomson Petition for Partial Reconsideration*"); Petition for Reconsideration of Consumer Electronics Association in MM Docket 00-39 (filed March 15, 2001) ("*CEA Petition for Reconsideration*").

one industry sector, in this case, the consumer electronics industry, for extremely intrusive government regulation, while not addressing other critical problems which are hampering the DTV transition. Thomson urges the Commission to maintain a vision that encompasses all essential components of the transition. Accordingly, Thomson also takes the opportunity in these Comments to highlight briefly important aspects of the transition that are not directly within the narrow focus of the *FNPRM*, but that are nonetheless truly integral components of a successful transition.

II. A DIGITAL TUNER REQUIREMENT IS BEYOND THE COMMISSION'S AUTHORITY AND WOULD IMPERIL THE FORWARD PROGRESS OF THE DTV TRANSITION.

In the *FNPRM*, the Commission concludes that the All-Channel Receiver Act ("ACRA") vests it with the authority to enact rules requiring that all television sets be capable of receiving digital television broadcast signals and seeks comment on how to construct a DTV tuner requirement consistent with any relevant statutory authority.⁷ The Commission has before it two timely-filed requests for reconsideration of the legal conclusion that ACRA vests it with authority to adopt forced integration rules.⁸ Thomson hereby incorporates by reference both Petitions as part of these Comments. In short, Thomson believes that it is impossible for the Commission to construct *any* DTV tuner requirement consistent with statutory authority.

Assuming *arguendo*, that the Commission possesses such legal authority, sound policy reasons dictate that the Commission not require forced integration of DTV reception capability in television receivers. Imposition of such a requirement would imperil the

⁷ *FNPRM* at ¶ 110.

⁸ See *Thomson Petition for Partial Reconsideration*; *CEA Petition for Reconsideration*.

marketplace-generated progress that already has occurred and, rather than accelerating the DTV transition, would likely trigger an angry consumer backlash that could make the DTV transition highly problematic.

A. A DTV Tuner Mandate Would Drastically Increase Retail Prices of Television Sets.

Approximately forty percent of TV sets sold in the U.S. today have screen sizes of 20 inches or less. Their retail prices are in the range of \$89 to \$220. These sets, and the consumers that depend on their functionality and affordability, would be the casualties of a mandate forcing manufacturers to integrate DTV reception capability into receivers. As discussed below, forced integration would increase the cost of every one of these receivers by \$200 to \$300 – doubling or tripling the retail price of these extremely affordable receivers – and, insodoing, possibly eliminate from the marketplace many of today's lower cost TV sets that are perfectly good candidates for digital signal reception through set-top converter boxes.⁹

As the Commission should know, adding DTV reception capability to analog NTSC television receivers is not a trivial task. It is not a matter of adding a single chip (as was the case with closed captioning) or making changes to an existing chip (as was the case with the V-chip), or even adding only two or three chips. Adding digital reception capability is a layered process involving not only reception, but also decoding and display, which requires extensive and costly additions to every receiver. Unlike analog television receiver technology, which has benefited from more than 50 years of cost reductions, DTV receivers have been

⁹ In fact, given the already virtually non-existent profit margins on these smaller receivers, the practical effect of any requirement that would double or triple retail costs would likely lead some, if not many, manufacturers to abandon these product lines entirely. This could further lead, in a "domino effect," to a chilling of the highly competitive market for these products, decreased consumer sales, and less likelihood of attaining the 85 percent penetration requirement for the DTV transition.

commercially available for only 2 or 3 years. Even with an aggressive cost reduction curve, the electronics package required to receive, decode and display digital television will still command a substantial per unit cost premium for the foreseeable future.

1. DTV Reception Capability Would Add \$200 to \$300 in Manufacturing Costs to All Receivers.

The component costs of digital reception capability can be broken down into approximately six major categories: mechanical parts (including PC boards, the mechanical frame, connectors, cables and RF shielding), MPEG decoding (including audio decoding), VSB integrated circuitry, memory chips (for both MPEG and microprocessor functioning), miscellaneous parts (PDA converters, switches, up amps, EE prongs, clock ICs, and additional power supply) variable manufacturing costs and overhead (which will vary widely by manufacturer, and includes labor costs, factory overhead, etc.). Each of these categories contains elements critical to the proper functioning of a DTV receiver in every market and with every broadcaster, regardless of whether the broadcaster chooses to transmit standard or high definition programming. Of course, each manufacturer guards as a matter of the utmost confidentiality the precise costs of specific parts and technologies. However, a range of these costs can reasonably be broken down as follows:

• Mechanical Parts	\$30 to \$45
• HD MPEG Decoder	\$40 to \$55 ¹⁰
• VSB IC	\$25 to \$40
• Memory	\$35 to \$50
• Miscellaneous Parts	\$45 to \$55
• Manufacturing Cost/Overhead	\$25 to \$50

¹⁰ Importantly, in order for a receiver to receive all 18 formats of the ATSC DTV standard, it must include a high definition decoder.

Finally, these cost figures *do not include* amortization of any design and development costs, which could be in the tens of millions of dollars for each manufacturer.

Thus, when manufacturers assert that DTV reception capability could, by the end of 2002, add \$200 to \$300 in costs, we are not pulling these numbers out of thin air. Moreover, assertions by some proponents that an across-the-board reception mandate will, by its sheer breadth, reduce these costs down to \$30.00, or even \$3.00, are simply false. Such sweeping predictions have absolutely no basis in fact.

B. Consumers Would Be the Casualties of Forced Integration.

There is nobody more interested in selling millions of digital television receivers than Thomson and other consumer electronics manufacturers. But it is neither necessary nor desirable to force digital television receivers upon an unwilling public and price low income consumers out of the market. Thomson firmly believes that consumers must choose whether or not they participate in the transition, and in what manner. There is already an impressive, and growing, array of DTV products available – including fully integrated HDTVs, high-resolution DTV displays, and digital-to-analog set-top converters – which provide consumers with an extraordinary degree of flexibility when choosing how they will make the transition to DTV, both in terms of functionality and cost.¹¹

¹¹ Over the last two years alone, some suggested retail DTV receiver and display prices have plummeted by nearly 50%. Consistent with the pace of DTV product sales, the decline in retail prices of DTV receivers is in line with the affordability curve for DVD players, and much more rapid than the similar curve for products like CD players, VCRs and large screen analog TVs. Thomson recently announced a 20 percent reduction of its direct view and projection fully integrated DTV products. The suggested retail pricing of RCA's 61-inch projection HDTV will drop from a high of nearly \$8,000 two years ago to \$3,999 this month. Similarly, consumers interested in HDTV monitor products will find comparable savings.

The Consumer Federation of America ("CFA") and other consumer and seniors groups have roundly condemned forced integration.¹² The CFA notes that "some low-income consumers who need a new television set but are unable to afford it may potentially be priced out of the market, and so be cut off from the most important sources of news and information in our information society."¹³ The Seniors Coalition characterizes the forced integration proposal as the "Poster Child" for regulatory overreaches where senior consumers are unfairly disadvantaged.¹⁴ And the CFA, the Massachusetts Consumers' Coalition, and The Seniors Coalition are all rightly concerned that forced integration will undermine attractive and affordable tools for the transition such as digital converters.¹⁵

Exacerbating the potential costs of forced integration is the auspicious lack of an offsetting societal benefit. Thus, the concept of forced integration is easily distinguishable from closed captioning or the V-chip. Unlike these technologies, which the government required to promote certain social goals and the costs of which were modest and absorbed by the consumer electronics and broadcast industries, forced integration of DTV reception capability into every television receiver will serve no extrinsic social goal and will be very expensive for consumers.¹⁶ The transition depends upon consumer acceptance and forced

¹² See Letter from Mark Cooper, Director of Research, Consumer Federation of America, to William Kennard, Chairman, FCC (dated Nov. 27, 2000) ("*CFA November Letter*"); Letter from Mark Cooper, Director of Research, Consumer Federation of America, to William Kennard, Chairman, FCC (dated January 16, 2001) ("*CFA January Letter*"); Letter from Paul J. Schlaver, Chair, Massachusetts Consumers' Coalition, to William Kennard, Chairman, FCC (dated December 5, 2000) ("*MCC Letter*"); and Letter from Mary M. Martin, Chairman, The Seniors Coalition, to William Kennard, Chairman, FCC (dated January 18, 2001) ("*TSC Letter*"). These letters are attached as **Appendix A**.

¹³ See *CFA November Letter*.

¹⁴ See *TSC Letter*.

¹⁵ See *id.*; *MCC Letter*; *CFA November Letter*; and *CFA January Letter*.

¹⁶ See 47 U.S.C. § 303(u) & (x). Significantly, the Commission imposed closed captioning and V-chip requirements pursuant to specific statutory authority – something it lacks with respect to a DTV tuner mandate. See *Thomson Petition for Partial Reconsideration* at pp. 7-9.

integration threatens to cut a segment of the population out of the transition without remedying significant persisting obstacles (*e.g.*, more high-quality content (*see* Section IV, *infra*)).

The bottom line is that manufacturers, competing in the same intensely competitive marketplace that has rapidly driven down costs of other popular consumer electronics products, are offering consumers flexibility and affordability in DTV products just as they have with earlier introduced products. This is not an example of marketplace failure – this is an example of marketplace success. The momentum behind this success, however, will vanish if manufacturers are saddled with government mandates that drive up costs and drive away investment in innovation. The ability of consumers to choose for themselves how, when, and at what cost, they will make the transition to DTV is an essential ingredient to consumer acceptance of DTV and ultimately the success of the transition.

III. THE ADOPTION OF LABELS FOR EQUIPMENT THAT IS NOT CAPABLE OF RECEIVING OVER-THE-AIR SIGNALS IS UNNECESSARY AND PREMATURE.

The Commission seeks comment on whether manufacturers are planning to produce digital television receivers that are incapable of receiving over-the-air digital television signals (*e.g.*, a monitor designed for use with cable or satellite only) and whether such products should be labeled in a fashion that informs consumers of the products' inherent limitations.¹⁷

Thomson believes that consumers should be informed regarding the DTV products they purchase and that clear and concise labeling is a proven means of informing consumers. However, the Commission admits that it is unaware of any such TV receiver without over-

¹⁷ FNPRM at ¶ 111.

the-air capability being marketed today.¹⁸ Thomson is similarly unaware of such a product. Accordingly, Thomson believes that developing a new labeling category is unnecessary and premature. If and when a product without over-the-air reception capability is introduced, it may then be appropriate to consider a label that informs consumers regarding the product's capabilities and limitations alike.

IV. THERE ARE SIGNIFICANT REMAINING OBSTACLES TO A SUCCESSFUL DTV TRANSITION THAT WARRANT THE ATTENTION OF, AND ACTION BY, THE FCC.

Thomson is concerned not only by the fact that the *FNPRM* focuses on an isolated set of DTV issues, but by the fact that additional issues of utmost importance to a successful transition appear to be overlooked or minimized. While we understand that some of these issues are the subject of ongoing proceedings, Thomson urges the Commission to maintain a vision that encompasses all essential components of the transition. Such a vision would consider the availability of DTV programming, cable compatibility and copy protection.

A. Lack of Programming Is One of the Most Significant Obstacles to the DTV Transition.

The importance of abundant, unique, and high quality digital content to the success of the transition cannot be overstated. No amount of affordable equipment will drive consumer demand for DTV if there is not enough desirable digital programming to watch. Today, notwithstanding the efforts of a few,¹⁹ we are far from having enough desirable digital content to view. The lack of sufficient amounts of unique, high quality DTV content, particularly

¹⁸ *Id.*

¹⁹ CBS is carrying substantial prime time and special events HDTV programming this year, including the Super Bowl and the NCAA Basketball Championships (consumer electronics manufacturers, including Thomson, have provided substantial financial support for CBS's HDTV programming, including production costs and advertising). Public broadcasters also are taking advantage of what DTV has to offer, including specialized HDTV programming and multiple streams of educational and civic SDTV programming.

HDTV, is dampening what would otherwise be far greater consumer demand for DTV products and represents one of the most significant obstacles to the progress of the DTV transition.

B. Rapid Adoption of Final Standards Enabling Cable-DTV Compatibility Is Essential to Drive DTV Equipment Penetration in America's 70 Million Cable Households.

Meaningful penetration of DTV in the 70 percent of American households that subscribe to cable requires resolution of outstanding technical and business issues relating to cable-DTV compatibility. While baseline agreements have been reached,²⁰ the consumer electronics and cable industries have, so far, failed to agree on final "build-to" specifications – the specifications necessary for manufacturers to design and build DTV receivers that are simply "plug and play" with cable. Similarly, there has been insufficient progress on so-called "middleware," an essential component for advanced interactive services which will require a cable set-top box. If FCC pressure alone does not spur rapid and final inter-industry accords, then mandatory standard-setting processes should be considered to ensure that cable subscribers: (1) have access to DTV over cable; and (2) can enjoy all of the DTV services, including interactive services, that broadcasters provide on the digital channel. Unless both of these requirements are met, DTV receiver penetration in cable households will remain extremely low.

C. DTV Copy Protection Can and Must Be Crafted to Balance the Existing Rights of Both Content Owners and Consumers.

Another significant obstacle to greater availability of quality DTV content is the lack of final resolution on adequate and reasonable standards for DTV copy protection. The idea

²⁰ For example, agreements have been reached: (1) to allow for direct connection of digital television receivers to cable systems; and (2) to address cable carriage of Program System and Information Protocol ("PSIP") data. Implementation of these agreements is ongoing.

that the introduction of DTV technology renders mutually exclusive the rights of content owners to protect their works from unlawful copying and redistribution, and the right of consumers to make recordings of digital content for personal, non-commercial use is clearly wrong. It is not a question of whether to protect either right, but of how to protect both. Again, it is important to consider the consumer in this debate. Consumers will balk if the transition to DTV turns out to be regressive in terms of their ability to time shift, build a home library of recorded video, and enjoy the full functionality of the consumer electronics products they purchase.

V. CONCLUSION.

Thomson urges the Commission to reject proposals for the forced integration of digital reception capability in TV sets and labeling requirements for products that don't even exist. Such piecemeal regulatory intervention would cause immediate and direct harm to consumers while leaving unaddressed other overarching impediments to a successful and swift DTV transition for all Americans.

Respectfully submitted,

THOMSON MULTIMEDIA, INC.



Lawrence R. Sidman, Esq.
Michael M. Pratt, Esq.
Sara Morris
VERNER, LIIPFERT, BERNHARD,
MCPHERSON & HAND, CHARTERED
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(202) 371-6206

Counsel to Thomson Multimedia, Inc.

David H. Arland
Director, Government and
Public Relations
THOMSON MULTIMEDIA, INC.
P.O. Box 1976, INH-430
Indianapolis, IN 46206-1976
(317) 587-4832

April 6, 2001

ATTACHMENT A



Consumer Federation of America

November 27, 2000

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Kennard:

We agree with and strongly support the efforts of the Federal Communications Commission (FCC) to foster an orderly transition to digital television (DTV) and to ensure that Americans have over-the-air access to digital programming by 2006. We also believe that FCC efforts to ensure that broadcasters remain committed to the programming transition schedule that they agreed to when they received the digital spectrum are important and just.

We are concerned, however, with recent suggestions that the FCC will move to require that every analog television set over 13 inches have DTV reception capability by 2003. Such a mandate would mean that the price of television sets would increase dramatically – by hundreds of dollars per set.

We feel that such a move is unwarranted, for a number of reasons:

- The increase is completely unjustified and an unnecessary burden on all consumers. It would impact low-income consumers most.
- Indeed, some low-income consumers who need a new television set but are unable to afford it may potentially be priced out of the market, and so be cut off from the most important sources of news and information in our information society.
- Cheaper options, such as digital converters, will be undermined by such a mandate, because the market for upgrades to small analog TVs will not be very attractive.

The original idea was to stimulate consumer demand for digital receivers through the increased availability of digital programming. The broadcasters, who were given the use

of a valuable public resource - digital spectrum, were asked to develop programming for that spectrum. Because they were given free use of the spectrum (valued at as much as \$70 billion), it was fair that they bear the burden of developing the programming to pull consumers into the digital TV age.

The FCC's current proposal contradicts that fundamental logic. It seeks to *push* consumers towards a digital transition by forcing them to buy much more expensive sets. Imposing these costs on the public - because the broadcasters have reneged on their part of the bargain - is outrageous. This proposal represents a capitulation by the FCC to the broadcasters, whose refusal to provide more digital programming has already slowed the transition to digital TV. This proposal provides no real incentive to produce digital programming, because the new sets would still have analog capacity.

It is clear that keeping broadcasters on track to fulfill their commitment and meet the 2006 deadline for full digital programming is the most expedient way that we can ensure a complete and equitable conversion to DTV. We urge the Commission to continue to demand that broadcasters develop digital programming. We urge the Commission to refrain from enacting a government mandate that will place an unnecessary and unfair cost on America's consumers.

Sincerely yours,



Mark Cooper
Director of Research

CC: The Honorable Susan Ness
The Honorable Harold W. Furchtgott-Roth
The Honorable Michael K. Powell
The Honorable Gloria Tristani
The Honorable John McCain
The Honorable Ernest Hollings
The Honorable Tom Bliley
The Honorable John D. Dingell
The Honorable W.J. Tauzin
The Honorable Edward J. Markey

EX PARTE OR LATE FILED



ORIGINAL

THE CHAIRMAN

Docket # OC-39

THE SENIORS COALITION

Working for a Responsible America

2001 JAN 22 P 2:51

January 18, 2001

RECEIVED

FEB - 3 2001

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Chairman Kennard:

The Seniors Coalition wishes to express to you our outrage at the current FCC proposal to force all televisions over 13" to carry digitally capable tuners by 2003. If all televisions must carry this component, the prices of new television sets will obviously jump in 2003. With most seniors on fixed retirement incomes, even a small increase in a television cost will unfairly burden seniors, and in many cases make the purchase cost prohibitive. Why should seniors needing to purchase a new television set be faced with having to spend hundreds of additional dollars, for a capability that they may not need or even want?

The Coalition has made a firm commitment to our nearly 4 million members and supporters across America that we will work diligently to identify and fight against regulatory overreaches where senior consumers are unfairly disadvantaged. The proposed action by the FCC is literally the "poster-child" of such regulatory excess, and has earned a top priority of our organization to mobilize against its implementation.

The FCC has already gifted the spectrum of programmers that is required to transition to digital television, and a generous window of opportunity in which to make the conversion. Broadcasters, on the whole, are not on track to fulfill their end of the bargain, to eliminate analog programming and return the analog spectrum owed back to the FCC by 2006. All indications are that programmers will try to hold on to the FCC's "gift" for as long as possible.

Beyond the core injustices inherent to this proposal, The Seniors Coalition is further dismayed by the decision to exclude this measure from the public meeting held on Thursday, January 11, 2001 and instead, to place it on the circulation. This issue is of great consequence to seniors and all consumers, sliding the measure past on circulation simply lends credibility to the anti-consumer nature of this solution.

cc'd to read OC
BUE

The Honorable William Kennard
January 18, 2001
Page 2

Broadcasters' have already been given a \$70 billion gift, not the FCC wants to give them another by shifting unnecessary costs to consumers. The Seniors Coalition urges the

FCC to spare seniors from the unnecessary costs of a digital transformation. Pro-consumer solutions do exist; the current proposal is not among them.

Sincerely,



Mary M. Martin
Chairman

CC: The Honorable Harold W. Furchtgott-Roth
The Honorable Michael K. Powell
The Honorable John McCain
The Honorable W.J. Tauzin
The Honorable John D. Dingell
The Honorable Susan Ness
The Honorable Gloria Tristani
The Honorable Ernest Hollings
The Honorable Tom Bliley
The Honorable Edward J. Markey

ORIGINAL

MM 00-39 EX PARTE OR LATE FILED



Consumer Federation of America

January 16, 2001

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RECEIVED

JAN 19 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Chairman Kennard:

The Consumer Federation of America (CFA) continues to support the efforts of the Federal Communications Commission (FCC) to move forward on the transition to digital television (DTV) and to gain over-the-air access to digital programming for all Americans by 2006.

The CFA continues to take issue with the FCC's proposal to require that television sets over 13" be equipped with digital tuners. We have expressed our concerns on this issue previously in a letter to you dated November 27, 2000 and have highlighted them again here:

We feel that a tuner requirement for all TVs over 13" places an unfair burden on consumers, for a number of reasons:

- The increase is completely unjustified and an unnecessary burden on all consumers. It would impact low-income consumers most.
- Indeed, some low-income consumers who need a new television set but are unable to afford it may potentially be priced out of the market, and so be cut off from the most important sources of news and information in our information society.
- Cheaper options, such as digital converters, will be undermined by such a mandate, because the market for upgrades to small analog TVs will not be very attractive.

The Commission's most recent decision, to pull this issue from last Thursday's public meeting agenda, is yet a further indication that this FCC is attempting to pass an anti-consumer measure by the means least likely to call attention to the issue. In placing this

Copies rec'd

ABCDE

issue on circulation the Commission is able to quiet the opposition and artfully deliver yet another gift to the broadcasters. By shifting the costs of the transition to DTV to consumers, the FCC allows the broadcasters to continue to drag their heels on the development of new, digital programming. Without more programming it is clear that there will not be a timely and complete conversion to digital television, and broadcasters will be able to hold on to the valuable \$70 billion worth of spectrum that they have been granted by the FCC well beyond 2006.

If the FCC does pass this measure on circulation, the Consumer Federation of America pledges to ask the incoming Commission to make the reversal of this anti-consumer action one of its top priorities. Again we take this opportunity to urge the Commission to refrain from enacting a costly mandate on the consumers of America.

Sincerely yours,



Mark Cooper
Director of Research

CC: The Honorable Susan Ness
The Honorable Harold W. Furchtgott-Roth
The Honorable Michael K. Powell
The Honorable Gloria Tristani
The Honorable John McCain
The Honorable Ernest Hollings
The Honorable Tom Bliley
The Honorable John D. Dingell
The Honorable W.J. Tauzin
The Honorable Edward J. Markey

MASSACHUSETTS CONSUMERS' COALITION

MM-0039

AN ASSOCIATION OF PUBLIC AND PRIVATE AGENCIES AFFILIATED TO PROMOTE CONSUMER INTERESTS

PAUL SCHLAVER, Chair
Cambridge Consumers' Council
617-349-8152

PAUL SCHRADER, Vice-Chair
Cape Cod Consumer Action Assistance Council
508-771-9700

DIANE SZAFAROWICZ, Treasurer
Massachusetts Attorney General's Office
617-727-2200 x 2982

JEANNE FOY, Secretary
MASSPIRG Consumer Action Center
781-335-8200

RECEIVED

December 5, 2000

JAN 19 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington DC 20554

Dear Chairman Kennard:

The efforts of the Federal Communications Commission FCC to foster an orderly transition to digital television (DTV) and to ensure that Americans have over-the-air access to digital programming by 2006 has our support. The FCC must maintain efforts to ensure that broadcasters also remain committed to the programming transition schedule agreed to when they received the digital spectrum.

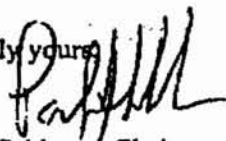
The issue the Massachusetts Consumers' Coalition wishes to raise with you today is the concern recently expressed that the FCC will require that every analog television set over 13 inches have DTV reception capability by the year 2003. We believe that this move would push the price of television up dramatically and is a premature move. Low-income consumer will be especially hit with a new, costly burden. The cheaper alternatives in the marketplace, such as digital converters, will be rarely sought out by consumers because few will seek to simply upgrade the under 13-inch analog TV's, the only allowable models remaining if this requirement is imposed on the marketplace.

The original expectation was to trigger consumer demand for digital receivers through a steady increase of digital programming. Broadcasters were given free use of the spectrum, a valuable public resource, in anticipation that they would, in turn, develop the programming needed for it.

The FCC proposal to set the 2003 requirement mentioned above appears to be an illogical way to prompt consumer participation in the digital TV age. The required purchase of expensive TV's will not necessarily prompt the development of more programming by the broadcasters for the TV sets will still be able to be used for analog broadcasting as well as digital.

The FCC must hold the broadcasters to the 2006 digital-programming deadline to prompt the more rapid and extensive conversion to DTV. The financial incentive was given them some time ago with the free use-of-the-spectrum approach. "If you build it, they will come." This rule of thumb, as exemplified by the movie, *The Natural*, applies here as well. Consumers will seek out new televisions with DTV reception capacity if they know that extensive programming has been "built." Please do not impose this year 2003 requirement for it is unnecessary and an unfair cost for America's consumers.

Sincerely yours,



Paul J. Schlavey, Chair
Massachusetts Consumers' Coalition

cc. The Honorable Susan Ness
The Honorable Harold W. Furchgott-Rith
The Honorable Michael K. Powell
The Honorable Gloria Tristani
The Honorable Edward J. Markey